

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Thomas Treshawn Ivey,) C/A No.: 0:07-cv-4025-GRA-BM
)
 Plaintiff,)
)
 v.) ORDER
) (Written Opinion)
State of South Carolina, a Governmental)
Entity; Jon Ozmint, Director of South)
Carolina Department of Corrections;)
Bernard McKie, Warden, Kirkland)
Correctional Institution, Columbia,)
South Carolina; and Unknown)
Executioners, individually and in their)
official capacities,)
)
 Defendants.)
)

)

This matter comes before the Court for a review of the magistrate's Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 73.02(B)(2)(d), D.S.C., filed April 1, 2008. Plaintiff originally filed this suit pursuant to 42 U.S.C. § 1983, seeking a permanent injunction prohibiting his execution. Defendant State of South Carolina filed a motion to dismiss based on the Eleventh Amendment. The magistrate recommends granting Defendant South Carolina's motion.

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions

of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Plaintiff did not file any objections.

After a thorough review of the motion to dismiss, the Report and Recommendation, and the relevant case law, this Court finds that the magistrate applied sound legal principles to the facts of this case. Therefore, this Court adopts the magistrate's Report and Recommendation in its entirety.

IT IS THEREFORE SO ORDERED THAT Defendant State of South Carolina's motion to dismiss be GRANTED and that the State of South Carolina be DISMISSED as a defendant in this case.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

May 13, 2008
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiff has the right to appeal this Order within thirty (30) days from the date of its entry.

Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**